

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Expedited Package Services 7
(MC2016-196 and CP2016-280)
Negotiated Service Agreements

Docket No. CP2018-185

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING AN
ADDITIONAL GLOBAL EXPEDITED PACKAGE SERVICES 7
NEGOTIATED SERVICE AGREEMENT

(March 27, 2018)

The Public Representative hereby provides comments pursuant to the Commission's Notice of Initiation of this docket.¹ In that Notice, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of filing a functionally equivalent Global Expedited Package Services 7 (GEPS 7) negotiated service agreement (Agreement).²

GEPS 7 contracts involve small or medium-sized businesses that mail products directly to foreign destinations using Priority Mail Express International, Priority Mail International, or First Class Package International Service. Notice at 4. Prices offered pursuant to an agreement may differ depending upon the volume or postage commitments made by the mailers. *Id.*

¹ Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, March 21, 2018.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, March 20, 2018 (Notice).

Prices and classifications “not of general applicability” for GEPS agreements were previously established by Governors’ Decision No. 08-7.³ In Order No. 86, the Commission established GEPS as a product on the competitive product list.⁴ In Order No. 3542, the Commission approved the addition of the GEPS 7 product to the competitive product list (MC2016-196), and included within that product a GEPS 7 agreement (CP2016-280) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.⁵

The Postal Service states that this additional GEPS 7 contract is the successor to the GEPS 7 contract with the same customer that is the subject of Docket No. CP2017-124, which will expire on March 31, 2018. Notice at 3. The Postal Service will establish the effective date of this agreement as soon as the Commission completes its review. *Id.* The term of the contract is 1 year subject to provision for early termination. *Id.*

The Postal Service asserts that the instant GEPS 7 contract is functionally equivalent to the baseline agreement for the first GEPS 7 product with differences in effective dates and non-substantive changes to language. Notice at 3. The Postal Service therefore requests that the instant GEPS 7 contract be included within the GEPS 7 product. Notice at 6.

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the Agreement, and supporting financial model filed under seal as part of the Notice. Based upon that review, the Public Representative concludes that the Agreement is functionally equivalent to the baseline agreement. In addition, it appears that the negotiated prices in the Agreement should generate sufficient revenues to cover costs.

³ Docket No. CP2008-5, United States Postal Service Notice of Filing Redacted Copy of Governors’ Decision No. 08-7, May 6, 2008 (Governors’ Decision No. 08-7).

⁴ Docket No. CP2008-5, Order Concerning Global Expedited Package Services Contracts, June 27, 2008 (Order No. 86).

⁵ Docket Nos. MC2016-196 and CP2016-280, Order Adding Global Expedited Package Services 7 to the Competitive Product List and Designating Baseline Agreement, September 27, 2016 (Order No. 3542).

Functional Equivalence. The Postal Service asserts that the Agreement shares similar cost and market characteristics as those of the contract that is the subject of Docket Nos. MC2016-196 and CP2016-280, which serves as the baseline agreement for the GEPS 7 product grouping. Notice at 3. However, the Postal Service identifies differences between the Agreement and the GEPS 7 baseline agreement. Notice at 5. Differences between the Agreement and the GEPS 7 baseline agreement are specific to the customer and include revisions to paragraphs, revisions to existing articles, and revisions to Annexes. *Id.*

The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. Notice at 5. The Public Representative concludes that the Agreement exhibits similar cost and market characteristics to the baseline agreement. Therefore, the Public Representative agrees that the Agreement is functionally equivalent to the baseline agreement and should be added to the GEPS 7 product.

39 U.S.C. § 3633. Pursuant to 39 U.S.C. § 3633(a), the Postal Service's competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service.

As presented, the Postal Service's financial model does not directly address whether the addition of the Agreement to the GEPS 7 product will result in the product as a whole covering costs as required by 39 U.S.C. § 3633(a)(2). However, the Postal Service's financial model indicates that the negotiated rates in the Agreement will generate sufficient revenue to cover its attributable costs. Therefore, the addition of the Agreement to the GEPS 7 product should not cause the product's cost coverage to fall below 100 percent, assuming the product currently covers its attributable costs. Under this assumption, the addition of the Agreement should allow the GEPS 7 product to continue to comply with 39 U.S.C. § 3633(a)(2), and should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Moreover, the GEPS 7 product should improve the likelihood

that complete products as whole contribute an appropriate share to the Postal Service's institutional costs, consistent with 39 U.S.C. § 3633(a)(3). The Commission will have an opportunity to review the financial results for the Agreement in a future ACD Report for compliance with 39 U.S.C. 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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